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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,807	03/11/2004	George L. Matthews	Matthews.2	7110

7590

12/28/2004

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EXAMINER

HOEY, ALISSA L

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/798,807	MATTHEWS, GEORGE L.	
	Examiner	Art Unit	
	Alissa L. Hoey	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the identifier numerals should be taken out. Correction is required. See MPEP § 608.01(b).

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: identifiers 40, 35 and 38. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the upward projecting support member is not defined or

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pointed out in the specification or drawings but is found in the claim. It is unclear exactly the upward projecting support member is.

Claim Objections

4. Claim 1 is objected to because of the following informalities: it is unclear what the upward projecting support member is. Is it the zipper, waistband elastic or something else? Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 5, 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson (US 5,642,526) in view of Marcellaro (US 4,447,911).

In regard to claim 1, Thompson teaches a jump suit (10) comprising an upper body portion (12), a lower pants portion (20, 22) and a waistband assembly (40) connected to a lower edge of the upper portion (12) and to an upper edge of the pants portion (20, 22). The upper body portion (12) having a front side including a left panel and a right panel (figure 2). The panels defining a vertical gap there between extending from the waistband (40) to a collar (19) at a top location and the gap providing a vent (figure 2). The upper body portion having a back side (14) including a yoke (60) extending across the suit from the left shoulder to the right shoulder (figure 2). The main

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back panel (14) connected to the yoke (60) at along a top edge of the back panel (14) and connected to the waistband (40) along a bottom edge thereof. The edge portions of the main back panel (14) having defined there between a pair of zippered vertically extending vents (100, 102).

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided the zippered vents extending between the front panel and the rear panel because Applicant has not disclosed that the zippered vents extending between the front panel and the rear panel provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the zippered vents extending between the front panel and the rear panel or are located on the back panel in the vicinity of the arm pits because as long as ventilation is provided to the user's armpits the vents being located between the seam of the front and back panel or located between the back panel and the arm portion is not critical.

However, Thompson fails to teach the lower pants portion including a left leg portion and a right leg portion defining a crotch opening there between. The waistband assembly including an upward projecting support member at a middle location on a backside thereof. The projecting member having defined therein an upper end extension of the crotch opening. A main zipper disposed for opening and closing the extended crotch opening.

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Marcellaro teaches a jump suit (10) comprising an upper body portion, a lower pants portion (12) and a waistband assembly (22) connected to a lower edge of the upper portion and to an upper edge of the pants portion (12). The lower pants portion (12) including a left leg portion and a right leg portion defining a crotch opening there between (figures 1 and 2). The waistband assembly (22) including an upward projecting support member (38) at a middle location on a backside thereof. The projecting member (38) having defined therein an upper end extension of the crotch opening (38a). A main zipper (14) disposed for opening and closing the extended crotch opening (column 1, lines 47-58).

In regard to claim 5, Marcellaro teaches the waistband assembly (22) comprising an elastic strap (26) disposed underneath the waistband extending across a backside of the waistband (column 3, lines 50-56).

In regard to claim 6, Thompson teaches the waistband assembly comprising a belt (40) disposed over the waistband.

In regard to claim 9, Thompson teaches perforated mesh strips located across each of the vertically extending vents (164).

It would have been obvious to have provided the jumpsuit with vents of Thompson with the extended crotch opening of Marcellaro, since the jumpsuit with vents of Thompson having an extended crotch opening would provide for hidden access flaps in the seat portion of the jumpsuit which can be easily opening and closed to allow the wearer to use toilet facilities without completely removing the garment.

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7. Claims 1, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson in view of O'Hara (US 5,983,401).

In regard to claim 1, Thompson teaches a jump suit (10) comprising an upper body portion (12), a lower pants portion (20, 22) and a waistband assembly (40) connected to a lower edge of the upper portion and to an upper edge of the pants portion (20, 22). The upper body portion having a front side including a left panel and a right panel (figure 2). The panels defining a vertical gap there between extending from the waistband (40) to a collar (19) at a top location and the gap providing a vent (figure 2). The upper body portion (12) having a back side (14) including a yoke (60) extending across the suit from the left shoulder to the right shoulder (18, 16). The main back panel (14) connected to the yoke (60) at along a top edge of the back panel (14) and connected to the waistband (40) along a bottom edge thereof. The edge portions of the main back panel (14) and the front side panels having defined there between a pair of zippered vertically extending vents (100, 102).

However, Thompson fails to teach the lower pants portion including a left leg portion and a right leg portion defining a crotch opening there between. The waistband assembly including an upward projecting support member at a middle location on a backside thereof. The projecting member having defined therein an upper end extension of the crotch opening. A main zipper disposed for opening and closing the extended crotch opening.

O'Hara teaches a pant garment (10) comprising a waistband assembly (14) connected to an upper edge of the pants portion. The pants portion including a left leg

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portion and a right leg portion defining a crotch opening (12, 18) there between. The waistband (14) assembly including an upward projecting support member (16, 22) at a middle location on a backside thereof (figure 3). The projecting member (16, 22) having defined therein an upper end extension of the crotch opening (18, 12). A main zipper (21, 22) disposed for opening and closing the extended crotch opening (16, 18).

In regard to claim 7, O'Hara teaches the main zipper including a pair of keepers (21, 22).

In regard to claim 8, O'Hara teaches the one of the keepers being disposed in a position accessible to a user from the front and the other of the keepers is located in a position accessible to a user from the back (figures 2 and 3, identifiers 21 and 22).

It would have been obvious to have provided the jumpsuit with vents of Thompson with the extended crotch opening of O'Hara, since the jumpsuit with vents of Thompson having an extended crotch opening would provide for hidden access flaps in the seat portion of the jumpsuit which can be easily opening and closed to allow the wearer to use toilet facilities without completely removing the garment.

8. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson and Marcellaro as applied to claim 1 above, and further in view of Paciorkowski (US 6,745,400).

In regard to claim 2, Paciorkowski teaches a lapel (46) connected to a front side panel of a jumpsuit (1) and being arranged for folding over from one position located away from the vent between panels and thus exposing the vent (45a) and to another

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position in which the lapel completely covers the vent (45a) and exposes the back side (47) of the lapel (figures 1 and 3).

In regard to claim 3, Paciorkowski fails to teach the lapel being triangular.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided the lapel being triangular because Applicant has not disclosed that the lapel being triangular provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the lapel being triangular or any other shape because as long as the lapel is able to cover and uncover the front vent the shape can be any.

It would have been obvious to have provided the jumpsuit with vents and crotch opening of Thompson and Marcellaro with the front lapel of Paciorkowski, since the jumpsuit of Thompson and Marcellaro having a label for covering and uncovering a vent opening would provide a jump suit that can be adapted to provide ventilation depending upon the wearer's need.

Conclusion

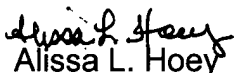
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Powell, Keck et al., Berkowitz, Brunzel, Smith, Swanstrom, Manson, Horton et al., Smith, Zecha, Klotz, Paola, Myers, Sampey, Meryash, Kunieda, Miller et al., George, Doyle, Marschall, Wong, Khemka et al., Van der Sleesen and Scovin are all cited to show closely related garments.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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